

REMARKS

Favorable reconsideration of this application in view of the foregoing amendments and remarks to follow is respectfully requested. Applicants observe that the foregoing amendments address the formal grounds of rejection raised in the present Office Action and therefore they raise no new issues that would require further consideration and/or searching on part of the Examiner. As such, applicants respectfully request that this Response be entered under the provisions of 37 C.F.R. §1.116.

In the present Office Action, the Examiner states in paragraph 3 that:

“...there was a typographical error in the paragraphs 4 and 6 of the previous Office Action. Claim 3 should have been rejected because obviously, -B-R⁴ is not necessarily present. Accordingly, the newly added Claim 19 is rejected.”

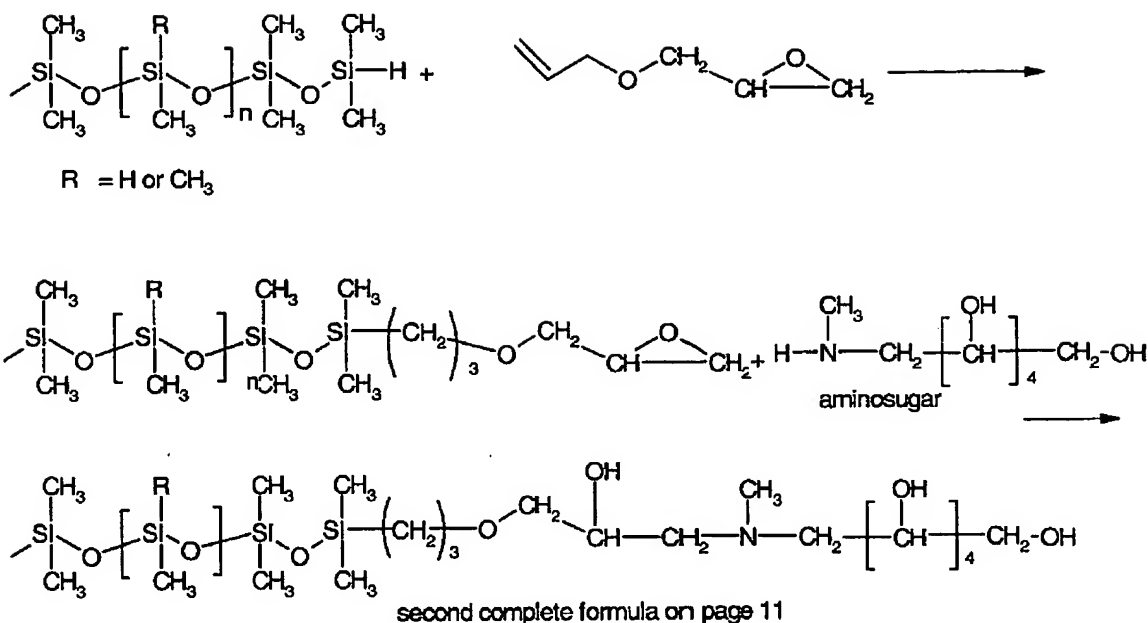
This particular passage of the present Office Action is confusing since Claim 19 is an independent claim which limits the ranges of a and b of formula 1 recited in Claim 3. Applicants observe that Claim 19 is substantially the same as that of previously added Claim 18 which is dependent on Claim 2 and that previous added Claim 18 was not rejected. The other remaining previously added claim, i.e., Claim 20, is deemed allowable in the present Office Action. Applicants thus see no reason why the Examiner indicated that the previously added Claim 19 was rejected. Applicants thus suppose that the Examiner meant to say that previously amended Claim 3 should have been rejected over Ichinohe. Such a statement however would also be untrue since Claim 3 includes an organopolysiloxane copolymer that includes R³, e.g., a polyester having the specific formula $[-(O=C)S-O-]_t$ which limitation the Examiner indicates in paragraph 9 of the present Office Action for allowing the present claims. Withdrawal of this rejection is thus respectfully requested.

Claims 5-8 stand rejected under 35 U.S.C. §112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter being claimed. In particular, the Examiner states that the instant claims merely describe how a polyester is attached to a polysiloxane and vice versa. However, it is unclear to the Examiner how to prepare an organopolysilicon wherein R⁴ is one of the claimed radicals. The Examiner notes that the radicals in question are attached to polysiloxane, not to the polyester.

Applicants respectfully submit that Claims 5-8 convey to one skilled in the art the meaning of the claimed method with sufficient clarity. The language of Claim 5 recites a process for preparing a compound of general formula (I) which comprises adding on polyester radicals either by hydrosilylation of a polyester carrying a double bond to a polyhydrogensiloxane, or by esterification of an OH-functional polysiloxane with a polyester carrying a free carboxyl group. It is well known to one skilled in the art that glycerol, polyglycerol, and other polyhydroxyorganyl recited in Claim 5 are molecules having multiple –OH functional groups. Thus, it is submitted that one skilled in the art would readily ascertain the metes and bounds of Claim 5 upon reading the plain language of the claim.

Applicants further submit that Example 1 provides a description of one possible method of fabricating the organopolysiloxane copolymer shown in formula 1 of the present application, which also falls within the plain language of Claim 5. In Example 1, polyhydroxystearic acid is reacted with a doubly terminated modified polyether siloxane in the presence of methanesulfonic acid.

Another method of fabricating the inventive organopolysiloxane copolymers is utilizing the following reaction scheme, which also falls within the plain language of Claim 5:



Applicants note that in the above reaction scheme the radical $-\text{N}(\text{CH}_3)\text{-CH}_2\text{-}$ can be replaced with any of the other claimed R^4 radicals providing a compound falling within the scope of Claim 5.

In view of the foregoing comments, the indefiniteness rejection to Claims 5-8 has been obviated. Reconsideration and withdrawal of the instant rejection are thus respectfully requested.

Claims 2, 5-8 and 18 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite. The Examiner notes in this regard that the Markush language used for R^4 in Claim 2 and 5 is improper.

In view of the foregoing indefiniteness rejection, applicants have amended Claims 2 and 5 to positively recite that R^4 is a hydrophilic radical of the general average formula

$-R^6-(C_2H_4O)_q-(C_3H_6O)_r-(C_4H_8O)_s-R^7$ in which $q = 1$ to 100 , $r = 0$ to 100 , $s = 0$ to 100 , R^6 is a divalent alkylene or alkyleneoxy group having 1 to 24 carbon atoms which is optionally branched and/or can contain double bonds and R^7 is a hydrogen atom, alkyl or acyl radical having 1 to 20 carbon atoms, *or R^4 is one of a polyhydroxyorganyl radical selected from the group consisting of glycerol and polyglycerol, a sugar or sugar derivative radical, a polyvinyl alcohol radical, a carboxylate, sulfate or phosphate radical, an ammonium radical or an amphoteric betaine or an amphoglycinate radical.*

Applicants respectfully submit that the above amendment to Claims 2 and 5 obviates the indefiniteness rejection and, as such, that rejection can and should also be withdrawn.

In addition to the specific amendment to Claims 2 and 5 mentioned above, applicants have also made other minor amendments to Claims 2 and 5 as well as Claims 3 and 20.

Thus, in view of the foregoing amendments and remark, it is firmly believed that the present case is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



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